

**AMENDMENTS TO THE DRAWINGS:**

The attached sheets of drawings includes changes to FIGURES 1-4, 6, and 9, replacing sheets 1-3 and 6. The designation of PRIOR ART is now presented in FIGURES1-4, FIGURE 6 includes a line pointing to reference number 602. FIGURE 9 now includes previously omitted reference number elements 911 and 912.

### **REMARKS**

The Applicants have carefully considered this application in connection with the Examiner's Action and respectfully request reconsideration of this application in view of the foregoing amendments and the following remarks.

The Applicants originally submitted Claims 1-8 in the application. In the present response, the Applicants have amended Claims 1-8 and added new claims 9-13. Accordingly, Claims 1-13 are currently pending in the application.

#### **I. Formal Matters and Objections**

The Examiner has objected to the FIGURES 1-4 because the designation "Prior Art " was not included. In response, the Applicants have so amended these figures.

The Examiner objected to the figure because they do not show every feature of the invention, namely the altering substance, specified in the claims. In response, the Applicants note that the term altering substance no longer appears in the claims thereby rendering this objection mute. Instead, the terms, vitrifying substance and altering compound now are specified in the claims. Additionally these terms are identified in the specification and figures by reference numbers 911 and 912, respectively. Support for these amendments includes page 9, lines 28-31, which discloses embodiments where the vitrifying substance is disposed in end-of-life cells 909; and page 11, lines 1-2, which discloses that an altering compound can be used in place of the vitrifying substance. Therefore, the addition of these reference numbers is not new matter because it is supported in the Application as originally filed.

The Examiner objected to the specification, stating that the specification should be amended to include the application serial numbers of the cited applications. In response, the Applicants have so amended the specification.

The Examiner objected to Claims 5 and 6 because "a" in Claim 5 should be replaced with "an". In response, Applicant's amendment to Claim 5 has resolved this objection.

The Examiner noted that a copy of the search report was not received with the June 18, 2004 IDS. In response, the Applicants note that the reference to a search report was a typographical error, and there is no search report for the present application. The Applicants apologize for any confusion this inadvertent error this has caused.

## **II. Rejection of Claims 1-4 and 7-8 under 35 U.S.C. §112 first paragraph**

The Examiner has rejected Claims 1-4 and 7-8 under 35 U.S.C. §112, first paragraph. In particular, the Examiner indicated that the specification does not provide for any apparatus other than a battery and so Claim 1-4 must be limited to such. The Examiner further indicates that claims 7-8 require amendment to nanostructures because the specification does not provide for non-nanostructures.

In response, the Applicants note that the amendment to Claim 7 resolves the Examiner's rejection to Claims 7-8 because these claims are now dependent on Claim 5, which in turn, recites nanostructures. Therefore the §112 first paragraph rejection of Claim 7-8 should be withdrawn.

Concerning the rejection of Claims 1-4, the Applicants draw the Examiner's attention to the following text of the Detailed Description:

For example, one skilled in the art, in light of the descriptions of the various embodiments herein, will recognize that the principles of the present invention may be utilized in widely disparate fields and applications. For example, while the embodiment disclosed herein is a battery having nanostructured surfaces, one skilled in the art will appreciate that such nanostructured surfaces may be used for other uses, such as in use as a thermostat. In such a case, the characteristics of the pattern of nanostructures and the liquid in contact with the nanostructures can be chosen in a way such that, upon a temperature increase of known amount, the liquid will penetrate the surface, thus achieving a desired result. One skilled in the art will be able to devise many similar uses of the underlying principles associated with the present invention, all of which are intended to be encompassed herein. (Detailed Description, Page 12, Lines 9-21)

The Applicants submit that because the specification does indeed provide for an apparatus other than a battery, the basis for the Examiner's §112 first paragraph rejection of Claim 1-4 is improper, and should therefore be withdrawn.

### **III. Conclusion**

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a timely Notice of Allowance for Claims 1-13.

It is not believed that any fees are due regarding this matter, however, the Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 08-2395.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,  
**Hitt Gaines, P.C.**



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